

REMARKS

Claims 1-18, 20-22, 24-37, and 40 are pending. Claims 1-4, 7-20 and 27-37 are withdrawn as being drawn to non-elected species, the requirement having been traversed. By this Amendment, claims 23 and 38 are canceled without prejudice or disclaimer; claims 5, 6, 21, 22 and 24-26 are amended; and claim 40 is added. Reconsideration in view of the above amendments and following remarks is respectfully requested.

Claims 5, 6, and 21, 22 and 24-26 were rejected under 35 U.S.C. § 112, 2nd paragraph. The claims have been amended to obviate the rejection. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 5 and 6 were rejected under Hochstrate (U.S. Patent 4,238,793). The rejection is respectfully traversed.

Claim 5 recites a variable-focus optical unit comprising a variable-focus element having a fluid portion, and an electrode adjacent to the fluid portion; and a power source and a driving circuit for driving said variable-optical-characteristic optical element. The power source or driving circuit includes a booster member that generates a voltage necessary in said driving circuit. The variable-focus optical element is capable of achieving optical deflection.

The electroluminescent (EL) panel 10 of Hochstrate, including the plurality of multiplexed segmented electrodes 3A-3F, is used as a light source. See column 1, lines 22-23. As the EL panel 10 of Hochstrate is simply adapted to emit light, it would not include a variable-focus optical element, nor would it be capable of achieving optical deflection. Therefore, Hochstrate cannot anticipate or render obvious claim 5.

With respect to the Examiner's comments regarding the preamble of the claim, although Applicants disagree with the Examiner's conclusion, as the body of the claim recites a variable-focus optical element, it is respectfully submitted that the interpretation is overcome. In addition, it is respectfully submitted that the term "variable-focus" is not a statement of intended use, as alleged by the Examiner, and therefore, the case law cited, including In re Otto and In re Sinex, are inapplicable to the facts of the instant application. See MPEP § 214404.

Claims 6 and 24 recite additional features of the invention and are allowable for the same reasons discussed above with respect to claim 5 and for the additional features recited therein.

Reconsideration and withdrawal of the rejection of claims 5 and 6 over Hochstrate et al. are respectfully requested.

Claims 21-26, and 38 were rejected under 35 U.S.C. § 102(b) over Schachar (U.S. Patent 5,774,274). The rejection is respectfully traversed.

Claim 21 recites a variable-focus optical unit having a deformable optical surface comprising a variable-focus element having said deformable optical surface; and a control system for driving said variable-focus optical element. The variable-focus optical element includes a fluid portion for deforming said deformable optical surface and an electrode adjacent to said fluid portion. The control system includes a booster member for applying a voltage necessary for driving said variable-focus optical element.

Schachar discloses that the solenoids 406 are driven to change the equatorial diameter of the lens 402. The solenoids 406 are provided at their tips with the clamp 408 that is in contact with the water 112 via the wall 114. See Figure 4. In Schachar, it is thus the clamp 408, a mechanical structure, not the solenoids 406, an electrical structure, that is in contact with the water 112. Accordingly, Schachar does not anticipate claim 21.

Claims 22 and 24 recite additional features of the invention and are allowable for the same reasons discussed above with respect to claim 21 and for the additional features recited therein.

Claims 25 and 26 each recite, *inter alia*, a computing unit that examines a high-frequency component of each image picked up while being defocused, and the position where the high-frequency component reaches a maximum is determined to be an in-focus position.

Schachar does not disclose or suggest a computing unit as recited in claims 25 and 26.

Claim 40 recites additional features of the invention and is allowable for the same reasons discussed above with respect to claims 25 and 26, and claim 24, and for the additional features recited therein.

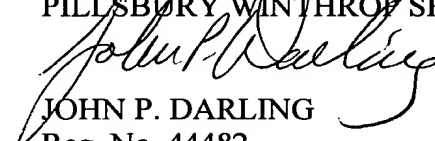
Reconsideration and withdrawal of the rejection of claims 21, 22, 24-26 and 38 over Schachar are respectfully requested.

In view of the above amendments and remarks, Applicants submit that all the claims are allowable and that the entire application is in condition for allowance.

NISHIOKA et al. -- 09/957,471
Attorney Docket: 009523-0283651

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
PILLSBURY WINTHROP SHAW PITTMAN LLP



JOHN P. DARLING
Reg. No. 44482
Tel. No. (703) 770-7745

Date: June 7, 2006

P.O. Box 10500
McLean, VA 22102
Tel. No. (703) 770-7900
Fax No. (703) 770-7901